

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
BRIEF &
APPENDIX**

77-6122

October 6, 1977

Docket No. 77-6122

Brief

**BRIEF
APPENDIX**

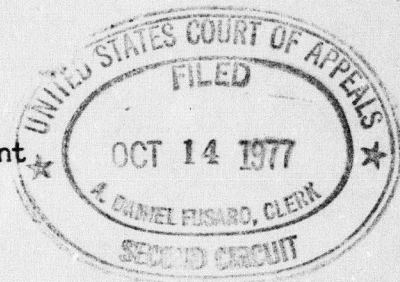
Charles Lubus Jr.

Plaintiff-Appellant

vs.

United States of America,

Defendant-Appellant



B P/S

Argument:

According to Sec. 57

Of the Internal Revenue Code all Interest Income, Dividends, Rents, Royalties, and Capital Gains are subject to the minumim tax and therefore are excluded by the \$30,000.00 exclusion prior to the year 1976. From the year 1969 through 1975 the \$30,000.00 exclusion applies.

I, Charles Lubus Jr., take the attitude that this is an honest and legitimate mistake by the Congress of the United States. The magnitude of this mistake is so high that it could be nothing but an honest mistake.

Charles Lubus Jr.
Charles Lubus Jr.

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Aug 2 10 04 AM '77

CLERK
UNITED STATES DISTRICT COURT DISTRICT COURT
BRIDGEPORT, CONN.
DISTRICT OF CONNECTICUT

CHARLES LUBUS, JR.

V.

UNITED STATES OF AMERICA

CIVIL NO. B-77-107

MEMORANDUM OF DECISION

The Government has moved for judgment on the pleadings in this taxpayer refund suit. From the complaint and accompanying exhibits, it is apparent that plaintiff seeks a refund for the years 1975, 1974, and 1973 for that portion of his taxes paid with respect to his income from dividends, interest and capital gains. His claims for refunds assert the bizarre theory that since these items of income are subject to the minimum tax provisions of the Internal Revenue Code, § 56(a), I.R.C., they are not subject to the regular tax provisions. Section 56(a) specifically states that the minimum taxes there imposed are "[i]n addition to the other taxes imposed." Obviously Congress in seeking to make sure that a minimum tax was imposed on those who might otherwise escape taxation did not intend to exempt those upon whom tax obligations were already imposed by other provisions of the Code.

~~The complaint is frivolous, and it is hereby~~
dismissed.

Dated at Hartford, Connecticut, this 1 day of
August, 1977.

Jon O. Newman

Jon O. Newman

United States District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

FILED

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CHARLES LUBUS, JR.

VS.

UNITED STATES OF AMERICA

CLERK
U.S. DISTRICT COURT
CIVIL NO. BRIDGEPORT, CONN.
B-77-109

J U D G M E N T

This cause having come on for consideration on Defendant's Motion for Judgment on the Pleadings and the Court having filed its Memorandum of Decision under date of August 2, 1977,

It is accordingly ORDERED, ADJUDGED and DECREED that judgment be and is hereby ordered in favor of the defendant and the instant action is hereby dismissed.

Dated at Bridgeport, Connecticut, this 2nd day of August, 1977.

SYLVESTER A. MARKOWSKI, Clerk

By

Vincent R. DeRosa
Vincent R. DeRosa
Deputy in Charge

